

SENATE BILL REPORT

2SHB 1951

As Reported by Senate Committee On:
Natural Resources, Ocean & Recreation, March 26, 2009

Title: An act relating to creating a program for public-private partnerships for the operation and management of salmonid hatcheries now closed or scheduled for closure by the department of fish and wildlife during the 2009-2011 biennium.

Brief Description: Regarding the operation and management of salmonid hatcheries.

Sponsors: House Committee on General Government Appropriations (originally sponsored by Representatives Finn, Short, Takko, Walsh, Blake, Johnson, McCune, Pearson, Williams and Van De Wege).

Brief History: Passed House: 3/06/09, 96-0.

Committee Activity: Natural Resources, Ocean & Recreation: 3/18/09, 3/26/09 [DPA].

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Majority Report: Do pass as amended.

Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton, Ranking Minority Member; Hargrove, Hatfield, Stevens and Swecker.

Staff: Curt Gavigan (786-7437)

Background: The Department of Fish and Wildlife (DFW) serves as manager of the state's fish and wildlife resources. Among other duties, DFW must classify wildlife and establish the basic rules and regulations governing the time, place, manner, and methods used to harvest or enjoy fish and wildlife.

DFW operates approximately 90 hatchery facilities, with about 70 facilities dedicated to salmon or steelhead production and 20 dedicated to trout and other game fish. The Governor's 2009-2011 proposed operating budget identifies seven hatcheries for closure. The seven hatcheries are the Colville, Omak, Arlington, Mossyrock, McKernan, Bellingham, and Palmer Ponds.

Summary of Bill (Recommended Amendments): DFW must establish a partnership program for the operation of state-owned salmonid hatcheries. The scope of the partnership

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program extends to hatcheries currently closed or scheduled for closure during the 2009-2011 biennium.

In implementing the partnership program, DFW must accept applications to determine appropriate partners. A partner must be:

- recognized as a nonprofit organization under section 501(c)(3) of the IRS code;
- a for-profit private entity; or
- a federally-recognized tribe.

DFW must develop and apply criteria in order to identify appropriate partners. The criteria must attempt to ensure that the partner has a long-range business plan to ensure the long-term viability of the partnership, which may include the sale of hatchery surplus salmon, including eggs and carcasses. DFW must prioritize partnership applications that provide for the maximum resumption or continuation of hatchery production.

Several directives are provided regarding partnerships, including that:

- a partnership agreement must contain a provision where the partner agrees to hold the state harmless for civil liability arising from the partner's activities;
- partnership agreements must be consistent with other state laws, rules, hatchery management policies, and collective bargaining agreements;
- partners conducting hatchery operations must maintain staff with comparable qualifications to those identified in the class specifications for DFW fish hatchery personnel; and
- under specified circumstances, hatchery maintenance or improvements under a partnership agreement must be performed by classified employees or subject to competitive contracting provisions.

DFW's authority under the partnership program is supplemental to, and does not limit, other authorities.

EFFECT OF CHANGES MADE BY NATURAL RESOURCES, OCEAN & RECREATION COMMITTEE (Recommended Amendments): The committee striking amendment:

- provides that for-profit private entities may enter into partnership agreements;
- removes language specifically referencing a special harvest of hatchery salmon as a potential component of a partner's long-range business plan;
- removes language specifying that DFW retains full authority and oversight over hatchery facilities;
- provides that Regional Fisheries Enhancement Group funds may serve as replacement funding for DFW operated salmon projects for the purposes of partnership agreements;
- specifies that the bill supplements, and does not limit, other DFW authorities;
- specifies that partnership agreements may not violate collective bargaining agreements;
- requires that partners conducting hatchery operations maintain staff with comparable qualifications to those identified in the class specifications for DFW fish hatchery personnel;

- provides specified circumstances under which hatchery maintenance or improvements under a partnership agreement must be performed by classified employees or subject to competitive contracting provisions; and
- makes technical corrections.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Second Substitute House Bill: PRO: Fish hatcheries are a valuable resource to the state, and public-private partnerships may provide a way to keep some from closing in the current economic crisis. These agreements may be a useful tool in the future, particularly in light of the existing funding challenges. DFW has the authority to enter into these partnerships currently, but this would prioritize such partnerships for hatcheries slated to close. The goal of the bill is to see greater salmon returns, and to provide new tools for and participants in hatchery management. Private entities could leverage funds to keep these hatcheries open, which may help provide for their seamless operation. The bill should ensure that for-profit entities can cooperate with DFW to operate hatcheries.

CON: The intent of the bill is good, but the Legislature should not close the hatcheries in the first place. They provide the state fish, revenue, and are an important source of employment.

OTHER: The term "special harvest" is ambiguous, raising questions about whether fisheries will continue to be open access. If DFW can already enter into cooperative agreements, why is this bill necessary?

Persons Testifying: PRO: Representative Finn, prime sponsor; Ezra Eickmeyer, Shannon Moore, Fish PAC; Ron Warren, DFW; Paul Ancich, Regional Fisheries Enhancement Groups; Ed Owens, Rob Zuanich, Purse Seine Vessel Owners Association, Coalition of Coastal Fisheries; Jack Field, Washington Fish Growers, Trout Lodge, Inc.

CON: Matt Zurich, Washington Federation of State Employees.

OTHER: Ray Honea, Puget Sound Harvesters Association.